

# EXHIBIT A

**U.S. Department of Labor**

Office of Administrative Law Judges  
800 K Street, NW, Suite 400-N  
Washington, DC 20001-8002

(202) 693-7300  
(202) 693-7365 (FAX)



July 2, 2015

MEMORANDUM FOR: PAULA NATHAN

FROM:

P.J. SOTO   
Director of Program Operations

SUBJECT:

Re-Hire

Attached are a Position Description, a Resume, and copy of the Dual Compensation Waiver Request to appoint Harry Sheinfeld to a Senior Attorney Advisor GS-0905-15 position. This position is with the National Office of Administrative Law Judges, effective July 26, 2015 and should not exceed July 25, 2016. A Par request was initiated for this action.

If you have any questions, please call Yolanda A. Harper on  EX 6

Attachments

cc:

Yolanda Harper

**U.S. Department of Labor**

Office of Administrative Law Judges  
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Washington, DC 20001-8002

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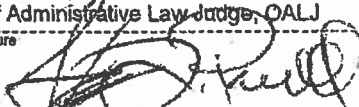
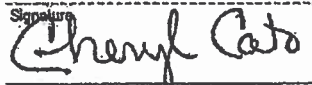


\*\*\*Change this position to an Attorney Advisor GS-0905-15 position, and use Job Code FF02266. Job code could not be found on the query list.\*\*\*

PAR action to appoint Harry Sheinfeld as a re-hired annuitant, to a Senior Attorney Advisor GS-0905-15 position. This position is with the National Office of Administrative Law Judges, effective July 26, 2015 and should not exceed July 25, 2016. For further questions, please contact Yolanda A. Harper on [REDACTED].

EX 6

This position should be built with general funds: MADJUD

POSITION DESCRIPTION (Please Read Instructions on the Back)						1. Agency Position No. F02266	
2. Reason for Submission <input type="checkbox"/> Redescription <input checked="" type="checkbox"/> New <input type="checkbox"/> Reestablishment <input type="checkbox"/> Other		3. Service <input checked="" type="checkbox"/> Hdqtrs <input type="checkbox"/> Field		4. Employing Office Location WASHINGTON, DC		5. Duty Station WASHINGTON, DC	
Explanation (Show any positions replaced)		7. Fair Labor Standards Act <input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Nonexempt		8. Financial Statements Required <input type="checkbox"/> Executive Personnel <input type="checkbox"/> Employment and Financial Interest		9. Subject to IA Action <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		10. Position Status <input type="checkbox"/> Competitive <input checked="" type="checkbox"/> Excepted (Specify in Remarks) <input type="checkbox"/> SES (Gen.) <input type="checkbox"/> SES (CR)		11. Position Is <input type="checkbox"/> Supervisory <input type="checkbox"/> Managerial <input checked="" type="checkbox"/> Neither		12. Sensitivity <input checked="" type="checkbox"/> 1-Non-Sensitive <input type="checkbox"/> 2-Critical <input type="checkbox"/> 2-Noncritical Sensitive <input type="checkbox"/> 4-Special Sensitive	
						13. Competitive Level Code	
						14. Agency Use	
15. Classified/Graded by		Official Title of Position		Pay Plan	Occupational Code	Grade	Initials      Date
a. Office of Personnel Management							
b. Department, Agency or Establishment		Attorney Advisor		GS	905	15	BL      5/14/14
c. Second Level Review							
d. First Level Review							
e. Recommended by Supervisor or Initiating Office							
16. Organizational Title of Position (if different from official title) Attorney Advisor (Whistleblower)				17. Name of Employee (if vacant, specify)			
18. Department, Agency, or Establishment U. S. Department of Labor				c. Third Subdivision			
a. First Subdivision Office of the Secretary of Labor				d. Fourth Subdivision			
b. Second Subdivision Office of Administrative Law Judges				e. Fifth Subdivision			
19. Employee Review-This is an accurate description of the major duties and responsibilities of my position.				Signature of Employee (optional)			
20. Supervisory Certification. I certify that this is an accurate statement of the major duties and responsibilities of this position and its organizational relationships, and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that				this information is to be used for statutory purposes relating to appointment and payment of public funds, and that false or misleading statements may constitute violations of such statutes or their implementing regulations.			
a. Typed Name and Title of Immediate Supervisor Stephen L. Percell Chief Administrative Law Judge, OALJ				b. Typed Name and Title of Higher-Level Supervisor or Manager (optional)			
Signature  Date 5/14/14				Signature _____ Date _____			
21. Classification/Job Grading Certification. I certify that this position has been classified/graded as required by Title 5, U.S. Code, in conformance with standards published by the U.S. Office of Personnel Management or, if no published standards apply directly, consistently with the most applicable published standards.				22. Position Classification Standards Used in Classifying/Grading Position GS-905, General Attorney Series dtd May 1974			
Typed Name and Title of Official Taking Action Bob Langan HR Specialist, OHRCO				Information for Employees. The standards, and information on their application, are available in the personnel office. The classification of the position may be reviewed and corrected by the agency or the U.S. Office of Personnel Management. Information on classification/job grading appeals, and complaints on exemption from FLSA, is available from the personnel office or the U.S. Office of Personnel Management.			
Signature  Date 5/14/14							
23. Position Review		Initials      Date		Initials      Date		Initials      Date	
a. Employee (optional)							
b. Supervisor							
c. Classifier							
24. Remarks							
Position is at the full performance level.							
25. Description of Major Duties and Responsibilities (See Attached)							

**Attorney-Advisor  
GS-0905-15**

**Organizational Title: Attorney-Advisor (Whistleblower)**

**PD#: F02266**

**I. INTRODUCTION**

This position is located in the National Office of the U.S. Department of Labor's Office of Administrative Law Judges (OALJ) in Washington, DC. OALJ is responsible for conducting hearings and rendering decisions involving a variety of statutes administered by the Department of Labor (such as the Longshore and Harbor Workers' Compensation Act, the Black Lung Benefits Act, the Davis-Bacon Act, the Fair Labor Standards Act, and various whistleblower statutes such as the Sarbanes-Oxley Act and the Surface Transportation Assistance Act). OALJ functions like a judicial court maintaining a calendar of cases to be tried and electronically tracking the history of each case from the time it is docketed, including the filing of pre- and post-trial motions and briefs by the parties, the date of hearing, and the issuance of decisions and orders by the assigned judge. In addition to its National Office, OALJ maintains District Offices in: Boston, Massachusetts; Cherry Hill, New Jersey; Pittsburgh, Pennsylvania; Cincinnati, Ohio; Covington, Louisiana; Newport News, Virginia; and San Francisco, California.

**II. MAJOR DUTIES AND RESPONSIBILITIES**

1. The incumbent serves as a principal attorney to the Chief Judge and is responsible for providing a full range of advice on Whistleblower program issues including:
  - a) Serves as Whistleblower program spokesperson and approves day-to-day activities of Whistleblower program-related matters in the absence of the Chief Judge.
  - b) Serves as a Whistleblower expert legal advisor to agency Administrative Law Judges, providing advice and recommendations on the many issues which arise in the performance of drafting of decisions in the Traditional program area, under which Whistleblower cases arise, on the most legally and factually complex matters and those having the most far-reaching consequences. Required to investigate, analyze and recommend solutions to legal questions that may have an impact on the adjudicative process.
  - c) Conducts the highest level of research on legal issues including substantive, administrative and procedural matters arising under the Whistleblower program. Such research requires examination of pertinent laws, regulations, administrative and court decisions and other materials necessary for ensuring and supporting sound and consistent decisions.
  - d) Recommends to the Chief Judge alternative legal guidelines for use by other attorney advisors requiring a high order of original and creative legal endeavor in order to develop

a scheme for dealing with the variations presented in Whistleblower cases in a logical and consistent manner.

- e) Develops Program Handbooks and Digests for the Whistleblower program and other program areas as assigned. These reference volumes exhaustively treat pertinent program precedent, regulations and statutes, and must be kept current as they serve as a resource publication for the Office's adjudicatory responsibilities available in the private sector.

2. Briefs the Chief Judge on particularly sensitive or controversial legal implications affecting the agency such as the Federal Advisory Committee Act, Freedom of Information Act, Privacy Act, etc. This allows the incumbent to provide both practical and incisive advice to the Chief Judge in the treatment of specific legal issues.

3. Performs other duties as assigned.

#### **Knowledge Required by the Position**

- mastery of the concepts, laws, theories, principles and techniques of legal proceedings;
- advanced skill in interpreting and applying legal knowledge to varying situations;
- significant experience in managing the intake and analysis of data regarding potential violations of federal laws and regulations;
- in-depth knowledge of the various whistleblower statutes such as the Sarbanes-Oxley Act and the Surface Transportation Assistance Act provisions;
- superior analytical, organizational and detail-oriented skills, including the ability to analyze complex problems and devise solutions;
- superior oral and written communication skills to prepare findings and reports, advise on legal issues, and communicate information and decisions with senior level managers; and
- the ability to interact in a professional, courteous and sensitive manner with the senior executives, judges, and attorneys within and outside of the Department of Labor.

#### **Supervisory Controls**

Incumbent works under broad directions of the Chief Judge providing advice and recommendations on complex and often confidential assignments that must be carried out with a high degree of independence. Incumbent advises the Chief Judge on the application and interpretation of law, or on proposed changes in legislation, policy and regulations. A broad range of statutes, opinions, Executive Orders, rules and regulations, etc. are available for consultation but a high degree of judgment and tact must be exercised in determining those matters that should receive the Chief Judge's attention. The incumbent independently plans, develops, and carries out complex projects and studies to meet office and organizational goals. The incumbent's technical expertise is rarely questioned.



### **III. FACTORS**

#### **1. Nature of Cases or Legal Problems: Type III**

The incumbent provides advice and guidance to the Chief Judge and Administrative Law Judges on extremely complex and difficult legal questions related to the Whistleblower program. Cases have far-reaching consequences and the incumbent provides legal counsel in difficult matters regarding all phases of the Whistleblower program and other program areas as assigned. The cases require the incumbent to apply a high order of original and creative legal endeavor in order to obtain a reasonable balance of conflicting interests that may arise between the parties.

#### **2. Level of Responsibility: Level E**

As the principle attorney to the Chief Judge the incumbent provides advice and drafts proposed decisions that require analyzing records, facts, pleadings, and questions of law that form the basis for final decisions. Responsibilities include advising on questions of law and administrative policy involved with the Whistleblower program and other program areas as assigned; answers questions that are covered by interpretations of the legal authority of the program; and provides decisions on the points of law.

The incumbent is expected to carry out assignments without preliminary instruction, and is expected to independently develop the completed decision, brief, opinion or other product. Incumbent confers with top-level officials in the Department and with Administrative Judges throughout the Department.

DECISION: Type III, Level E converts to a GS-15.

### FLSA CHECKLIST for POSITION DESCRIPTION

#### Attachment A

#### FLSA (5 CFR part 551) Evaluation Outline

Not Met - Criminal Investigator with Availability Pay Exemption (5 CFR 551.213)

Not Met - Executive Exemption

- ☐ Exercises appropriate supervisory responsibility (primary duty- more than 50%)
- ☐ Customarily and regularly directs the work of two or more employees

Met - Professional Exemption

- ☒ Learned Professional work (primary duty – more than 50%)
- ☒ Intellectual and varied work (more than dealing with procedures/precedents); or
- ☐ Creative Professional (primary duty – more than 50%)
- ☐ Invention, imagination

Not Met - Administrative Exemption

- ☐ Management or general business (primary duty – more than 50%)
- ☐ Discretion & Independent judgment

Not Met - Computer Employee Exemption

- ☐ Computer systems or program design and/or development (primary duty – more than 50%)

Comments/explanations (State which major duties/job functions are Exempt):

Duties numbered from the PD: 1-2

Conclusion: Exempt from FLSA Coverage



**U.S. DEPARTMENT OF LABOR**  
**FOR FLSA EXEMPTION DESIGNATION**  
**LEARNED PROFESSIONAL EXEMPTION**

**INSTRUCTIONS:** This form is designed to be used for the purpose of reviewing and designating positions as FLSA-exempt "learned professional" positions in accordance with the provisions of 5 CFR part 551. The completed form should be signed by the position's supervisor and the Human Resources reviewing official and retained with the official copy of the position description to which it applies.

<b>Agency:</b> U.S. Department of Labor	<b>Date of Review:</b>
<b>Subagency/Organization/Division:</b> Office of Administrative Law Judges	
<b>Position Title:</b> Attorney- Advisor <b>Organizational Title:</b> Attorney-Advisor (Whistleblower)	<b>Pay Plan/Series/Grade:</b> GS-905-15
<b>Position Description/Job Code Number(s) (Attach Position Description(s)):</b>	
<b>Employee(s) Covered (Attach Separate List if Necessary):</b>	

Please use the following checklist to determine whether the position under review meets the criteria for exemption from the FLSA overtime requirements as an exempt learned professional position. The exemption criteria contained in 5 CFR 551.208 (and associated definitions contained in 5 CFR 551.104) should be applied together with this checklist to assure that the correct determination is made. A position meeting the criteria outlined below should be designated as FLSA exempt pursuant to the learned professional exemption, 5 CFR 551.208. NOTE: in order for a position to be deemed an exempt "learned professional" position, the "Salary Threshold" box and the "Duties" boxes must be checked:

<b>SALARY THRESHOLD:</b>	
<input checked="" type="checkbox"/>	The annual rate of basic pay for this position is equal to or greater than \$23,660, or the position is a professional legal position, a physician position, or a teacher position, as those terms are defined in 5 CFR 551.208 (c), (d), and (h).

<b>DUTIES:</b>	
<input checked="" type="checkbox"/>	<p><b>Work Requiring Advanced Knowledge in a Field of Science or Learning.</b> The <u>primary duty</u> of an employee in this position involves the performance of work requiring advanced knowledge in a field of science or learning that is customarily acquired through a prolonged course of specialized intellectual instruction, as those terms are defined in 5 CFR 551.208.</p> <p><b>INSTRUCTIONS:</b> In order to meet this criterion, both the "advanced knowledge" and "primary duty" boxes below must be checked.</p> <p><input checked="" type="checkbox"/> <b>ADVANCED KNOWLEDGE:</b> The work of an employee in this position meets <u>all</u> three of the following criteria:</p> <p><input checked="" type="checkbox"/> The work is <u>predominantly intellectual in character</u> and includes work that <u>requires the consistent exercise of discretion and judgment</u>, as opposed to routine mental, manual, mechanical, or physical work. The knowledge required by the work cannot be attained at the high school level.</p> <p style="text-align: center;"><b>AND</b></p> <p><input checked="" type="checkbox"/> The knowledge required by the work must be in a <u>field of science or learning</u> which includes law, medicine, theology, accounting, actuarial computation, engineering, architecture,</p>

<p>teaching, various types of physical, chemical and biological sciences, pharmacy, and other similar fields of science or learning that have a recognized professional status, as distinguished from the mechanical arts or skilled trades.</p> <p style="text-align: center;"><u>AND</u></p> <p>[ x ] The knowledge required by the work is customarily acquired by a prolonged course of specialized intellectual instruction (i.e., specialized academic training is a standard prerequisite for entrance into the profession, whether or not the employee has in fact obtained such training).</p> <p style="text-align: center;"><u>AND</u></p> <p>[ x ] PRIMARY DUTY: An employee in this position spends more than 50% of his/her work time performing the work indicated above, or such work: (1) constitutes a substantial, regular part of the work assigned to and performed by the employee, (2) is the reason for the existence of the position, and (3) is clearly exempt work in terms of the basic nature of the work, the frequency with which the employee must exercise discretion and independent judgment, and the significance of the decisions made. See 5 CFR § 551.104.</p>
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**FLSA DETERMINATION:**      X   EXEMPT                                 NON-EXEMPT

**CERTIFICATION:**

I hereby certify that this position has been thoroughly reviewed in accordance with the applicable sections of 5 CFR part 551 and that, based on such review, the position meets the criteria for the aforementioned determination on the FLSA overtime provisions, as defined in 5 CFR § 551.208.

  
STEPHEN L. BURRELL, CHIEF ADMINISTRATIVE LAW JUDGE, OALJ

Printed Name & Signature of Supervisory Official

5/14/14  
Date

  
BOB LANGAN, HR SPECIALIST, OFFICE OF HUMAN RESOURCES CONSULTING OPERATIONS

Printed Name & Signature of Reviewing Human Resources Official

5/14/14  
Date

7/09

## POWER RECRUITING - SUMMARY

*Harry Scheinfeld*

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Position Title:	ATTORNEY ADVISER (LABOR)	Request Date:	07/02/2015
Request #:	211444	Position #:	15087854
Job Code #:	FF0706		
Pay Plan-Series-Grade:	GS-0905-11		
Position Type:	Vacant		
Recruitment Request Status:	Manager Request		

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## VACANCY INFORMATION:

Advertising Area:	Open to Everyone
Commuting Area:	Local Commuting Area
Advertising Duration:	Normal
Appointment:	Temporary
Length of Temp Appt:	1 Year Appt.
Work Schedule:	Full Time
Shift Work:	No
Position Telework Eligible:	Yes
Moving Expenses:	Will Not Be Paid
Travel:	No
Travel Nights per Month:	Not at all

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## OCCUPATIONAL SERIES:

0905 General attorney

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## GRADES:

GS-15  
Highest Achievable Grade: 15

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## ADVERTISING SOURCES:

Resume, Latest SF-50 Form, and Notice of Annuity

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## Work LOCATION(S):

City, State:	WASHINGTON, DC
Work Location Description:	WASHINGTON, DC
Number of Openings:	1
Requesting Manager:	PURCELL,STEPHEN L

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## HELP WANTED TEXT:

None

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**POWER RECRUITING - SUMMARY (continued)**

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*Harry Scheinfeld*

**EVALUATION CRITERIA:**

None

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**CANDIDATES ARE REQUIRED TO HAVE:**

None

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**COMMENTS:**

Requesting Manager Harper, Yolanda A - Proxy

\*\*\*Change this position to an Attorney Advisor GS-0905-15 position, and use Job Code FF02266. Job code could not be found on the query list.\*\*\* PAR action to appoint Harry Scheinfeld as a re-hired annuitant, to a Senior Attorney Advisor GS-0905-15 position. This position is with the National Office of Administrative Law Judges, effective July 26, 2015 and should not exceed July 25, 2016. For further questions, please contact Yolanda A. Harper on [REDACTED]. This position should be built with general funds: MADJUD

EX 6

U.S. Department of Labor

Office of Administrative Law Judges  
800 K Street, NW, Suite 400-N  
Washington, DC 20001-8002

(202) 693-7300  
(202) 693-7365 (FAX)



July 11, 2016

MEMORANDUM FOR NIQUELA WALLACE

FROM:

P.J. SOTO   
Director of Program Operations

SUBJECT:

Extension

Attach is the approval for a dual compensation wavier to extend Harry L. Sheinfeld appointment as an Attorney Advisor GS-0905-15, with the National Office of Administrative Law Judges. This request is for a one year extension and not to exceed July 22, 2017. If possible, please make this effective July 24, 2016. A WebPar has been initiated in HR Connect.

If you have any questions, please call Yolanda Harper at [REDACTED]

EX 6

Attachments

cc: ~~Stephanie~~ Stephanie Redfearn

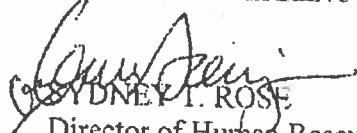
U.S. Department of Labor

Office of the Assistant Secretary  
for Administration and Management  
Washington, D.C. 20210



MEMORANDUM FOR STEPHEN R. HENLEY  
Acting Chief Judge  
Office of Administrative Law Judges

FROM:

  
SYDNEY T. ROSE  
Director of Human Resources

SUBJECT: Extension of Dual Compensation Waiver—Harry L. Sheinfeld

Your request to extend the dual compensation reduction (salary offset) waiver for Harry L. Sheinfeld has been approved. We have determined that your justification meets the salary offset criteria in the National Defense Authorization Act for Fiscal Year 2010, P.L. 111-84 (October 28, 2009), specifically that the employment of the annuitant is necessary to fulfill functions critical to the mission of the Department. The salary offset waiver will enable the Office of Administrative Law Judges (OALJ) to retain Mr. Sheinfeld as an Attorney-Advisor, GS-905-15, on a temporary appointment, not to exceed one year. Mr. Sheinfeld's duty station will be Washington, DC.

Work under this authority is not to exceed 1,040 hours per year, and not to exceed 3,120 hours total for the employee. If the agency wishes to extend the appointment beyond one year, an extension request must be submitted to the Human Resources Center, including a statement of the number of hours worked by the annuitant during each year of the waiver authority.

Mr. Sheinfeld will assist OALJ in reducing the backlog of PERM permanent employment-based immigration appeals before the Board of Alien Labor Certification Appeals (BALCA) and serve as a Senior Attorney to assist in counseling OALJ on the increasing caseload of whistleblower cases. Mr. Sheinfeld has stated that he will not accept employment with the Department unless the dual compensation offset is waived.

Reemployed annuitants serve at the will of the appointing official. Annuitants employed under this authority are covered by Social Security and may not make civil service retirement contributions or participate in the Thrift Savings Plan.

As you are aware, in accordance with Departmental Personnel Regulation 553, each DOL Agency that hires an annuitant is required to maintain a case file on such employee.

If you have questions, please contact Andy Glasgow, Office of Human Resources Policy and Accountability, at [REDACTED]

cc: P.J. Soto  
Tara Mable

EX 6

**Soto, P.J. - OALJ**

EX 6

**From:** Harry Sheinfeld  
**Sent:** Monday, June 22, 2015 7:00 PM  
**To:** Soto, P.J. - OALJ  
**Cc:** Henley, Stephen R. - OALJ; Perez, Angel L. - OALJ  
**Subject:** Re: Re-employed Annuitant

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I am excited about the opportunity to work with OALJ but I will need to be able to take advantage of the dual compensation waiver. It does not make economic sense without that.  
Harry

Sent from my iPhone

On Jun 18, 2015, at 5:27 PM, Soto, P.J. - OALJ <[soto.pj@dol.gov](mailto:soto.pj@dol.gov)> wrote:

Mr. Sheinfeld --

We are pleased that you are interested in working for OALJ as a re-employed annuitant. Acting Chief Judge Henley will be requesting a dual compensation waiver and he needs to know if it isn't approved, would you still be willing to come work for OALJ where you will receive the difference between your annuity and your salary at a GS-15 step 10?

P.J. Soto  
Director, Office of Program Operations  
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